

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THOMAS TERRELL LOFTON,

Movant,

DECISION AND ORDER

04-CR-6063DGL

v.

UNITED STATES OF AMERICA,

Respondent.

Pending before the Court are two motions for the release of funds (Dkt. #258, #265) by Thomas Terrell Lofton (“Lofton”), against whom judgment in the underlying criminal case was entered on May 24, 2006.

Lofton seeks the partial refund of monetary penalties that were assessed against him. In his initial sentencing, Lofton was ordered to pay a total of \$2,600, comprised of six (6) \$100 special assessments for each of Counts 1, 2, 3, 5, 6, and 7, and four (4) \$500 fines for each of Counts 1, 2, 3, and 5. (Dkt. #122). The Clerk’s Office thereafter collected \$2,600 from Lofton. (Dkt. #266 at 3).

Lofton’s convictions on Counts 2 and 6 were subsequently vacated, and an amended judgment was issued which assessed no fees or fines with respect to Counts 2 and 6, but added a \$500 fine to Count 7 which had not been assessed at Lofton’s initial sentencing. As such, the monetary penalties assessed at resentencing totaled \$2,400. (Dkt. #210, #249).

Now before the Court are the Lofton's motions for release of funds (Dkt. #258, #265), seeking the return of \$700, made up of the two (2) \$100 assessments originally paid on Counts 2 and 6, and the \$500 fine for his conviction on Count 2.

The Government does not object to the return of the two \$100 assessments, but argues that Lofton is really only entitled to the return of \$200 in overpaid funds – the difference between the penalties assessed against him initially, and those assessed at resentencing. (Dkt. #266).

The Court concurs. Lofton's motions for a return of funds (Dkt. #258, #265), are hereby granted in part: Lofton's request for the release of the \$200 he paid in assessments related to Counts 2 and 6 is granted, and his motions are otherwise denied.

The Clerk is hereby directed to turn over to Lofton the amount of \$200.00, by electronically transferring it to his commissary account at his place of incarceration, USP Florence, Register No. 12275-055, via the Intra-Government Payment and Collection ("IPAC") system.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
October 12, 2023.